



DEPARTMENT OF ADMINISTRATIVE SERVICES

STATE OF CONNECTICUT

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Testimony in Support of House Bill 5598

AAC The Department of Administrative Services and the Disposition of Surplus
State Property, Short Term Emergency Leases, The Definition of Executive Session
and Duplicative Statements of Financial Interest

Government Administration & Elections Committee

January 28, 2013

The Department of Administrative Services offers the following testimony in support of House Bill 5598.

Section 1 of HB 5598 was developed in conjunction with the Assets Management Division of the Office of Policy and Management ("OPM") and the State Properties Review Board ("SPRB") in an effort to make process improvements relating to the State's real property transactions, including the process by which surplus property is reused or sold.

Under the current process, the sale of surplus property takes *at least* 400 to 600 days from the date an agency notifies OPM that it has no further use of a property to the date of sale. In the meantime, the State continues to be responsible for maintaining the property and, on several occasions, has needed to repair damage caused because the property is vacant. This proposal aims to improve the process by which the State's surplus real property is disposed by (1) requiring state agencies to analyze whether available property is useful for their core functions; (2) better informing the public about the surplus property process and soliciting their input as part of the decision-making process; (3) allowing the State to make reuse/disposition decisions based upon complete, accurate and current information; and (4) streamlining the approval process by eliminating redundant steps and shortening timeframes, thereby reducing both the costs of maintaining the properties and the risk of damage to vacant properties.

One noteworthy change relates to how to give municipalities and members of the public the opportunity to have their interests heard during the surplus process. Currently, the only way that these interests are expressed is through a cumbersome process of offering the property to the affected municipality multiple times: when property is first declared surplus; then once again after the State has negotiated and come to terms with another buyer; and, possibly, again, if the negotiated agreement

contains any terms that vary from the offer made to the municipality. Not only does this process require the municipality to consider a property it has rejected again and again, but it also undermines the State's ability to negotiate with outside buyers, and adds significantly to the length of time the State must pay to maintain the property.

Under this proposal, the State will offer the property to the municipality one time. If the municipality declines the property, the State can take steps to market the property, after notifying not just the municipality and its legislative delegation, but also the affected regional planning organization and the Connecticut Economic Resource Center. Additionally, this proposal allows the Secretary of OPM the opportunity to hear the concerns of the public directly by holding informational public meetings before declaring the property surplus, if the Secretary believes such meetings would be beneficial.

Sections 2-4 of this bill are conforming sections.

Section 5 of this proposal relates to a different kind of real estate transaction - leases. This section would allow the Commissioner of Administrative Services to enter into leases of 12 months or less without going through the OPM/SPRB review process when necessary after the Governor declares a building-specific emergency that requires the immediate re-location of the building occupants. This proposal does not alter the requirement that all leases be approved by the Office of the Attorney General.

Pursuant to C.G.S. §§ 4b-23(k) and (l), OPM, and in certain circumstances, SPRB, must pre-approve the acquisition of any space or facility that is not included in the existing State Facility Plan. C.G.S. §4b-3(f) also requires SPRB approval of real estate acquisition sales or leases. Currently, the lease process takes 12-18 months

By their very nature, space or facilities needs resulting from an emergency that renders a building unusable cannot be planned, and therefore would not be included in the State Facility Plan. If a building becomes unusable due to such an emergency and the Governor declares the state has an immediate need for space via a lease, utilizing the existing processes would result in delay and may jeopardize state services and operations. The proposed language would give the Commissioner of Administrative Services the ability to expedite the acquisition of new leased space if necessary to ensure that the state employees, clients, patients, inmates, etc. of the unusable state building have an alternate location with a minimum of delay and disruption to the operations of the state.

Section 6 of this proposal clarifies that the State, not just political subdivisions of the State, can meet in executive session to discuss real estate transactions when publicity regarding such site, lease, sale, purchase or construction would negatively affect the deal until such time as all of the property has been acquired or all proceedings or

transactions concerning same have been terminated or abandoned. It also clarifies that likely harm to the public agency's financial interests, not simply increased price should be the determining factor.

"Public agency" is broadly defined to encompass "any executive, administrative or legislative office of the state or any political subdivision of the state...." Under the current language of subsection (6), however, only political subdivisions may go into executive session to discuss confidential real estate matters. The justification for this provision, however, applies equally to the State as to towns: concern that the public discussion of such real estate matters will impair the entity's negotiating position. As stewards of the public fisc, it is equally important for State agencies to be able to engage in candid discussions and thorough analyses of potential real estate transactions without the fear that the information shared in such meetings will be used by parties on the other side of the negotiating table to the detriment of the State's interests.

Lines 321-322 change the phrase "would cause a likelihood of increased price" to "would adversely impact the price paid by the public agency." DAS supports changing the metric from "an increased price" to "adversely impact the price" because the purchase of property is not the only real estate transaction engaged in by public agencies. The existing language states that executive session is appropriate for the "discussion of the selection of a site or the lease, sale or purchase of real estate." If the public agency is meeting to discuss the sale of real estate, the "increased price" metric is inappropriate. It is more accurate and straightforward for the statute to require an "adverse impact" on the price for the public agency, rather than codifying just one example of potential harm.

DAS is concerned, however, that line 322's reference to "the price paid by the public agency" could be interpreted as again limiting the application of this provision to purchases. DAS respectfully offers that following alternative language in lines 321-322: "would adversely impact the price of such site, lease, sale, purchase or construction."

Finally, Section 7 of this bill eliminates the requirement that non-clerical employees in the DAS Leasing & Property Transfer Unit and members of the State Properties Review Board file duplicate statements of financial interest (SFIs) with DAS or the State Properties Review Board, respectively, as well as the Office of State Ethics.

In 1987, the legislature instituted a number of reforms to the State's policies and practices relating to real estate transactions, including imposing a requirement that non-clerical employees in the Leasing and Property Transfer Unit submit statements of financial interest to the then State Ethics Commission and DAS. Similarly, members of the State Properties Review Board were also required to submit statements of financial interest to the State Ethics Commission and SPRB. Notably, these "statements of financial interest" were not the same as the statements of financial interest required

under C.G.S. §1-83 ("SFIs"). The requirement to file "statements of financial interest pursuant to the provisions of C.G.S. §1-83" was not enacted until 2009.

The original purpose of the 1987 legislation was to prevent conflicts of interest from infecting the State's real estate decisions. That purpose is adequately addressed by maintaining the requirement to file the SFIs with the Office of State Ethics. To the extent that either DAS or the Board has any need to see the information contained within the SFIs, they can do so easily by contacting the Office of State Ethics. With the advent of electronic filing of SFIs and the subsequent ease of accessing such information, the need for DAS and SPRB to maintain duplicate copies of the same form has become obsolete.

DAS thanks the Committee for raising this bill, and we respectfully ask for the Committee's support. Please contact DAS's legislative liaison, Terrence Tulloch-Reid (860)713-5085, if you have any questions or require further information.